

MINUTES
Special Meeting
KITTY HAWK TOWN COUNCIL
Tuesday, May 19, 2020
Kitty Hawk Town Hall, 9 AM

Agenda

1. Call to Order
2. Public Comment
3. New Business:
 - a.) Discuss Special Accommodations that may be Allowed under the Town of Kitty Hawk Emergency Declaration for Restaurant Outdoor Seating if Indoor Seating Restrictions are Imposed by the State of North Carolina as part of the COVID-19 Response
4. Public Comment
5. Adjourn

COUNCILMEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Craig Garriss, Councilman David Hines, Councilwoman Lynne McClean and Councilman Jeff Pruitt

STAFF MEMBERS PRESENT:

Town Manager Andy Stewart, Town Clerk Lynn Morris, Town Attorney Casey Varnell, Town Planner Rob Testerman

AUDIENCE MEMBERS PRESENT:

Beaman Hines (Restaurant Owner) and Mike Beatty (Private Club Owner)

Due to the COVID-19 pandemic declared on March 11, 2020 and gathering and social distancing guidelines people could listen to this meeting by telephone if they did not want to attend in person.

1. CALL TO ORDER

Mayor Perry called this special meeting to order at 9:02 a.m. and announced all members of the town council, town manager, town attorney, town planner, two members of the public and the town clerk is present. He thanked councilmembers for their attendance.

2. PUBLIC COMMENT

1. Beaman Hines, Owner/Shipwrecks Taphouse & Grill and Sandtrap Tavern, Kitty Hawk, NC: *Good morning. I want to thank you for having this meeting and appreciate anything you can do to give us a hand. It has been a rough couple of months. The outdoor seating we are looking at will help us get close to what we want. I still do not think we will get 100% even with outdoor seating but if we can get close to 75% or so between both the restaurants it will help a lot. If we are not doing 90% of what we were doing last year all of us are going to be losing money. All I ask is to try and help us out as much as you can with this parking situation where we can use some of it for seating if we have enough spaces. I think the public would like that also. To be able to sit outside. Right now, we are trying to pick out a spot where it would be feasible for outdoor seating. All the restaurants in Kitty Hawk I am sure will appreciate whatever we can get done to help us get some people in the seats indoors or outdoors. Thank you.*

Perry: *I am glad you came because it allows me to ask some questions. I asked Dr. Davies (Director, Dare County Department of Health & Human Services) about grass seating and she said that except on a septic system or a drain field you can already serve outside. I had been told you could not.*

Hines: *You can serve and seat outside. We can seat outside at Shipwrecks behind the building. We have picnic tables out there now and I will be serving out there. You must draw something up to be able to serve alcohol. It is submitted to Raleigh and they will approve or deny it. If they approve it then you can serve out there what you want. Which is a good thing.*

Perry: *Except you cannot put a picnic table over a drain field.*

Hines: *Right.*

Perry: *That is a county health department issue.*

Hines: *Right. We talked with them about special circumstances. They will actually talk to us about it. There are things that are going on that possibly can be changed for the situation we are in right now.*

Perry: *The next question I have regards tents. That was discussed by the manager and the planner. Is that something you foresee?*

Hines: *That is something I am definitely looking into right now. I have already spoken with Code Enforcement Officer Ben Alexander and he has been out to look where I want to put it. The placement must allow for fire trucks and safety vehicles to be able to get around the parking lot. Make it so there are no public safety issues or anything like that.*

Kitty Hawk Town Council Minutes: Special Meeting, May 19, 2020
Page 3

Perry: *What we are really looking at is something like a tent during Bike Week except it would be for outdoor eating in lieu of selling merchandise. Correct?*

Hines: *Yes, and still socially distancing. It takes up a lot of space. For us it is taking up the front parking lot in front of the building and attaching it to our covered area. Taking up all those parking spaces. I can only get about 24 seats there. I mean it helps a little but then you must incur the cost of what a tent is going to cost you. There is a lot of expense getting set up. I will run the numbers. I would rather have it in the front so people can see us and know we have some good outdoor seating and it is covered. If it is raining, we will have tents and they will not get wet.*

Perry: *My next question deals with food trucks. Apparently, the Town of Duck is going to allow food trucks to prepare food but not serve food. In your case you would do what?*

Hines: *I would sell and serve food out of it. I do not see how it really helps just fixing the food out of the trucks. It might help out a little, but it seems like it is another labor issue you are going to have.*

Perry: *In his case Duck would not let him serve food but they acquiesced to allowing him to set it up in order to facilitate a central location to prepare food not separated into two restaurants or something. It was kind of unique and I wanted council to understand that you would serve food. Will you prepare it in there too?*

Hines: *We prepare a lot of it in there. We will be smoking in the restaurant and then we will bring it out into the parking lot and sell it but not all of it is going to be made in there. That catering trailer is more for going to sites and setting up and doing x amount for 500 to 1000 people.*

Councilman Hines: *I do not think it is any different than the seafood festival.*

McClean: *Alcoholic beverages. They will only be from the restaurant and not from the truck?*

Hines: *Right.*

Garriss: *Beaman just to clarify. You and your staff will have the capacity to wait on someone and serve them outside versus them going in and getting a takeout box and sitting at the picnic table.*

Hines: *Yes sir.*

Perry: *The things that the planner has discussed so far is whatever seating is allowed outside cannot exceed what you would have originally had inside and that is due to health considerations.*

Hines: *It seems like we will have about 120 seats total outside and inside with the way we are going right now.*

Kitty Hawk Town Council Minutes: Special Meeting, May 19, 2020
Page 4

McClellan: *The outdoor tent area. Pet friendly?*

Hines: *Yes, we are looking at it. We want to get a tent that has three sides on it. If it is raining it will keep the rain out. On a pretty day I am going to roll up the sides. We must close it off for ALE reasons. We cannot have it where somebody can just walk off with a beer or alcohol. It is not going to be wide open where anybody can come from all sides. It will be blocked off either with roping or a fence. Give it a Shipwrecks character look. Trying to make this as fun as possible for the situation we are in.*

Perry: *A sided tent adds some fire code and other requirements that you must pass.*

Hines: *Yes. We are working with Ben on all of that. We know more about it because of Bike Week and some of the other events we hold. We know we must have fire extinguishers and separation for the fire trucks. We set it up for a little wedding one time. It should not be that big of a deal.*

Perry: *Thank you. If no one has any other questions we will ask the next guest to come forward.*

2. Mike Beatty, Jr. Co-owner of Paparazzi OBX Bar and Live Concert Venue, Kitty Hawk,

NC: *Hi. Along with my parents I am co-owner of Paparazzi. I am here to experience my first town hall meeting so thank you for having me and thank you for having a meeting like this. I really appreciate it. I know a lot of people are wondering what is going on and have a lot of questions during this very crazy time.*

We are actually a private club, so we do not necessarily fall under the stipulation of restaurants. I am wondering what or how things apply to us. I have not seen anything that has specifically been available for private clubs.

Perry: *My gut is telling me when you are serving food it is going to be the same for everybody. Casey?*

Varnell: *That is correct.*

Perry: *Does that answer your question?*

Beatty: *Sort of. I mean we are considered a live music venue. According to the governor in Phase II bars and live music venues are expected to be able to reopen at some sort of capacity. I do not what that is yet.*

Perry: *Whatever we decide here will be contingent upon what the governor's minimum standards are. If the governor says you can open at a 50% capacity for a bar, then that is probably what you are going to be allowed to do and nothing more. Does that answer your question?*

Beatty: *Yes sir. Thank you.*

Kitty Hawk Town Council Minutes: *Special Meeting, May 19, 2020*
Page 5

Mayor Perry asked if anyone on the telephone had a comment. (No one replied.)

3. NEW BUSINESS

a.) Discuss Special Accommodations that may be Allowed under the Town of Kitty Hawk Emergency Declaration for Restaurant Outdoor Seating if Indoor Seating Restrictions are Imposed by the State of North Carolina as part of the COVID-19 Response

Perry: *Rob can you give us your recommendations?*

Testerman: *Based on the email that was forwarded from the Restaurant Association there was a specific request for using parking spaces for seating and ensuring that food trucks based outside of town are not setting up in town. We have that currently. If a restaurant owner like Mr. Hines also owns a food truck, he can set it up on his own parcel and operate it there. We do not allow another truck to come operate on someone else's parcel. I think what was drafted addresses those specifics.*

Varnell: *I wrote this declaration based on conversations with Rob and Andy. There are two declarations. The only difference is on the second page and allows a business establishment to engage in the use of tents.*

4. PUBLIC COMMENT

Perry: *Are there any comments from anyone on the telephone? (There were no comments.)*

Testerman: *I will add for the record only 25 % of the parking area can be used as outdoor seating.*

Perry: *Is council in agreement to allow tents for as long as we are in this crisis? Everybody is nodding yes.*

Food trucks. They are already allowed but we do not allow itinerant food trucks. Is everyone in agreement with food trucks that can also serve food? (Councilmembers said yes.)

Partial parking lot seating. Are we all in agreement on this? It will degrade of course some of the parking that will be available for patrons, but the restaurant owners are going to have to deal with that in some fashion. What we do not want though is people parking on the side of the road. I know we already have that problem at John's Drive In on the beach road. I do not know how he is going to accommodate this but again that is his problem. Are we all in agreement?

Council said yes and MPT Garriss added as long as they are following the proper standards to allow access for emergency vehicles.

Kitty Hawk Town Council Minutes: Special Meeting, May 19, 2020

Page 6

Perry: *With the knowledge we have from the health department. If they have grass seating that it is not over a septic or a drain field. That would be permitted as well? Council replied yes.*

Perry: *If the health department should ease up on that a little, do we have a problem with going with the health department? Whatever they decide. Casey do you need to add anything?*

Varnell: *I am going to add a provision stating that any of these items that are being given for relief must meet any other applicable laws and regulations on such an establishment such as health and human services or any safety law. We are not waiving the provisions of the town code regarding emergency protection. I can add a simple clause that will address it.*

Perry: *And what does your clause state as far as the longevity of this?*

Varnell: *For so long as the State of North Carolina continues to require capacity restrictions these items shall be in effect. Also, this declaration may be modified from time to time as is necessary. If the governor decides he is going to reduce the capacity restrictions, you can make a decision to do something different with this. Perhaps 10% of the parking may be used if that is what is necessary. Item 5 of the declaration states it will automatically expire upon termination of the state and Town of Kitty Hawk Declarations of the State of Emergency.*

Garriss: *Then we are back to normal operating procedures at that point.*

Perry: *Do I hear a motion to approve the declaration as stated?*

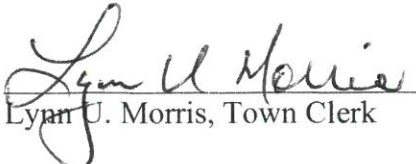
Councilman Pruitt made a motion to approve the amended declaration. It was seconded by MPT Garriss and unanimously approved, 5-0.

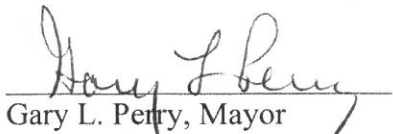
Perry: *Before I adjourn, I had an email from a young person by the name of Jesse Oyster. He is homebound in Stow, Ohio and is turning 19. He asked to have a Happy Birthday shout out and that is what I am doing. Happy Birthday! (Councilmembers joined in saying Happy Birthday!)*

5. ADJOURN

Councilman Pruitt made a motion to adjourn. It was seconded by Councilwoman McClean and the vote was unanimous, 5-0. Time was 9:26 a.m.

These minutes were approved at the July 7, 2020 council meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor